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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/009,231	01/20/98	KRICHEVER	M 0291XZ

MM21/0607
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EXAMINER	
DUNN, D	
ART UNIT	PAPER NUMBER
2876	<i>H 9</i>

DATE MAILED: 06/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Allowability

Application No. 09/009,231	Applicant(s) Krichever
Examiner Drew A. Dunn	Group Art Unit 2876

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

- This communication is responsive to the amendment filed 06/03/99.
- The allowed claim(s) is/are 49-72.
- The drawings filed on _____ are acceptable.
- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been
- received.
- received in Application No. (Series Code/Serial Number) _____.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received: _____.
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- Applicant MUST submit NEW FORMAL DRAWINGS
- because the originally filed drawings were declared by applicant to be informal.
- including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. _____.
- including changes required by the proposed drawing correction filed on Jun 3, 1999, which has been approved by the examiner.
- including changes required by the attached Examiner's Amendment/Comment.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.
- Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152
- Interview Summary, PTO-413
- Examiner's Amendment/Comment
- Examiner's Comment Regarding Requirement for Deposit of Biological Material
- Examiner's Statement of Reasons for Allowance



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Paper No. 9

C
DAD 6/14/95

Application Number: 09/009,231

Filing Date: 01/20/98

Applicant(s): Krichever et al.

DETAILED ACTION

Election of Species

This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. A multiple working range optical system as illustrated in figure "1a" and classified in class 359, subclass 672;
- II. A body wearable optical scanner as illustrated in figures "3a & 3b" and classified in class 235, subclass 472.01;
- III. A stationary scanning station having a conveyor as illustrated in figure 4a and classified in class 235, subclass 462.14;
- IV. A dual laser optical scanning system as illustrated in figure 7 and classified in class 235, subclass 462.22;
- V. A multi scan-pattern scanner with wavelength selection as illustrated in figure 9, 10a-10c and 12 and classified in class 235, subclass 454.

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VI. A reading optically encoded data from dual data streams as illustrated in figures 7 and 11 and classified in class 235, subclass 462.25.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During telephone conversations with Alan Israel (27,564) on May 20, 1999, June 3, 1999 and June 4, 1999, an election was made without traverse to prosecute the invention of group V, illustrated in figures 9, 10a-10c and 12 and recited in claims 27-38. Further, in light of the

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aforementioned election, applicant has cancelled claims 1-48 and added claims 49-72 which recite the limitations of the agreed upon elected invention.

Applicant has further provided paper #5, which includes a statement and authorizes appropriate charges to be made to account 11-1145, in order to correct inventorship in view of the cancellation of claims to a non-elected invention in compliance with 37 CFR 1.48(b).

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alan Israel (27,564) on June 4, 1999.

The application has been amended as follows:

In the Specification:

On page 9 line 5, "3a" has been changed to --3a-3c--;
on page 9 line 6, "3b" has been changed to --3d--;
on page 21 line 2, "314" has been changed to --315--.

In the claims:

Claim 64 has been amended:

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14. (Once amended) A method of reading indicia having parts of different light reflectivity, comprising the steps of:

- a) producing a plurality of light beams of different wavelengths;
- b) selecting a first of the beams having a first wavelength to produce a first scan pattern,

C. and selecting a second of the beams having a second wavelength to produce a second scan pattern, the scan patterns having a different number of scan lines.

In the Drawings:

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: in figure 9, the duplication of element 314 has been corrected. Specifically, the labeled reflection has been relabeled with element number 315. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

Allowable Subject Matter

Claims 49-72 are allowed.

The following is an examiner's statement of reasons for allowance: though the prior art discloses optical scanning and producing a plurality of light beams of different wavelengths, it fails to teach or suggest the apparatus and method for selecting a first of the beams having a first wavelength to produce a first scan pattern, and selecting a second of the beams having a second wavelength to produce a second scan pattern, the scan patterns having a different number of scan lines.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: both U.S. Patent Nos. 5,235,167 and 5,600,119 to Dvorkis et al. disclose a scanning system which uses a first and second raster scanning pattern which increases the height which sweeps the entire symbol; both U.S. Patent No. 5,420,411 to Salatto, Jr. et al. and U.S. Patent 5,859,417 to Dvorkis et al disclose optical scanning systems with varying scanner working ranges. The remaining art has been cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Drew A. Dunn** whose telephone number is (703) 305-0024. The examiner can normally be reached between the hours of 8:00AM to 4:00PM Monday thru Thursday and every other Friday (second Friday of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald T. Hajec, can be reached on (703) 308-4075. The fax phone number for this Group is (703) 308-7722 or (703)308-5841.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [don.hajec@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the

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Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Drew A. Dunn
4 June 1999



Donald Hajec
Supervisory Patent Examiner
Technology Center 2800